

Matthew J. Smith
Mohave County Attorney
Gregory A. McPhillips
Deputy County Attorney
State Bar No. 016262
315 N. 4th Street
P.O. Box 7000
Kingman, AZ 86402
Telephone: (928) 753-0719
Fax: (928) 753-2669
CAO.Court@mohavecounty.us
Attorney for Plaintiff

FILED

2016 AUG 13 AM 11:21

VIRLYNN TINNELL
SUPERIOR COURT CLERK

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MOHAVE

STATE OF ARIZONA,

Plaintiff,

vs.

JUSTIN JAMES RECTOR

Defendant.

No. CR-2014-1193

MOTION TO COMPEL
DISCLOSURE OF MITIGATION
EVIDENCE

COMES NOW, the State of Arizona, by the Mohave County Attorney and through the undersigned Deputy County Attorney, Gregory A. McPhillips, respectfully requests that the Court compel the defense to disclose all mitigation evidence the defendant intends to admit if this case proceeds to sentencing.

At this point, the defense has not disclosed any mitigation evidence. On the 4th of November 2016, this court set a disclosure deadline for mitigation evidence. That deadline was the 13th of January 2017. The defense failed to disclose mitigation evidence as required by the court.

On the 25th day of April 2017, undersigned counsel sent a letter to defense counsel Mr. Gavin—requesting mitigation evidence.¹

On the 18th of July 2017, undersigned counsel filed "State's case Status Report for July 21, 2017" and noted to the court that the mitigation evidence was not disclosed.

¹ Attached



1 On the 5th day of September 2017, undersigned counsel sent a letter to
2 defense counsel Mr. Jolly—requesting mitigation evidence.²

3 To this day, the defense has not disclosed any mitigation evidence.

4 This evidence may include mental health records of defendant. That
5 evidence may include hundreds of witnesses as mentioned by Mr. Gavin in one
6 court hearing. That evidence, and those witnesses, may not exist. That
7 evidence may no longer be needed now that the Death Penalty allegation has
8 been withdrawn. Either way, disclosure of mitigation evidence the defense
intends to use must be made to allow the case to proceed.

9 The court ordered disclosure of mitigation evidence a year and a half ago.
10 The defense did not meet that order. The defense has not disclosed mitigation
11 as of today's date. The court must compel disclosure or preclude the use of any
12 mitigation evidence.

13 RESPECTFULLY SUBMITTED THIS 13TH DAY OF AUGUST, 2018.

14 MOHAVE COUNTY ATTORNEY
15 MATTHEW J. SMITH

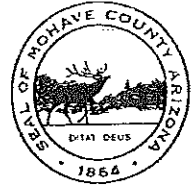
16 By 

17 DEPUTY COUNTY ATTORNEY
18 GREGORY A. MCPHILLIPS
19
20
21
22
23
24

² Attached

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

ATTACHMENTS



Mohave County Attorney's Office

Main Office:
P.O. Box 7000
315 N. 4th Street
Kingman, AZ 86402-7000
Telephone (928) 753-0719
Fax (928) 753-2669
Email CAO.Court@mohavecounty.us

MATTHEW J. SMITH
County Attorney

JAMES M. SCHOPPMANN
Chief Deputy

Victim/Witness
P. O. Box 7000
325 Pine Street
Kingman, AZ 86402-7000
Telephone (928) 718-4967
Fax (928) 718-4966

Branch Offices:
Bullhead City (928) 758-0727
Lake Havasu City (928) 854-3501

Civil Division:
Telephone (928) 753-0770
Fax (928) 753-4290

April 25, 2017

Gerald T. Gavin
The Law Office of Gerald T. Gavin
3880 Stockton Hill Road Suite 103-450
Kingman, AZ 86409

RE: *State v. Justin James Rector*
Superior Court Division 4 CR-2014-1193

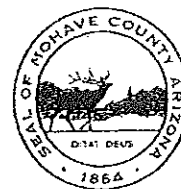
Dear Gerald T. Gavin:

I hope all is well with you. I am working on getting the DNA information that you have requested. Hopefully, I will get that to you by the next hearing.

I have several requests for the defense. Currently, I have no substantive disclosure from defense. Recently, the defense has asserted that there are hundreds of defense witnesses and hundreds of pages of defense disclosure. None of that has been disclosed to the State. I am a little worried that the defense may dump an immense amount of disclosure on me just before trial.

We are coming up on the June Status Hearing. At that time, Judge expects us to announce a realistic trial date. Now that Ms. Cassels has had an opportunity to get up to speed, there are several immediate tasks that need to be completed prior to trial.

1. Interviews: Please send me every date you are available to complete interviews between today's date through the end of July. We will knock out more interviews.
2. Sanity pre-screen: On the 21st day of November, 2014, I requested the Court appoint an expert to make a prescreening determination of the defendant's sanity at the time of the commission of the offense, unless the defendant objects, pursuant to A.R.S. § 13-754. Defendant has made clear, on the record that he does not object to the screening. I have addressed the need for this screening at several hearings. I need defendant's mental health records so the State's expert can examine defendant.
 - a. We need to conduct this screening.
 - b. Please disclose all mental health records that you have collected regarding defendant.



Mohave County Attorney's Office

Main Office:
P.O. Box 7000
315 N. 4th Street
Kingman, AZ 86402-7000
Telephone (928) 753-0719
Fax (928) 753-2669
Email CAO.Court@mohavecounty.us

MATTHEW J. SMITH
County Attorney

JAMES M. SCHOPPMANN
Chief Deputy

Victim/Witness
P. O. Box 7000
325 Pine Street
Kingman, AZ 86402-7000
Telephone (928) 718-4967
Fax (928) 718-4966

Branch Offices:
Bullhead City (928) 758-0727
Lake Havasu City (928) 854-3501

Civil Division:
Telephone (928) 753-0770
Fax (928) 753-4290

c. Please disclose any experts you have retained to examine his mental health and their reports.

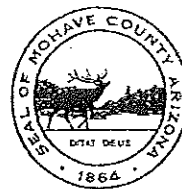
3. State Interview of Defendant: On the 30th of September 2014, I requested to speak with defendant. I made a second request on the 16th of February 2015. I made a third request, to Mr. Gavin, on the 25th of March 2015. That request has never been answered.

4. Request for disclosure: On the 16th of February 2015, I requested disclosure. Recently you said in court that there are hundreds of witnesses. I re-requested disclosure from Mr. Gavin on the 25th of March 2015. To this date, and aside from the initial disclosure of general denial, the State has not received any disclosure in this case.

- a. Does defendant intend to present any defense other than general denial? For example does he intend to introduce evidence at trial of either alibi, insanity, self-defense, defense of others, entrapment, impotency, marriage, insufficiency of a prior conviction, mistaken identity, or good character?
- b. Can you please tell me the names and addresses of all witnesses whom the defendant intends to call at trial? Also please disclose their relevant written or recorded statements.
- c. Do you plan on calling any experts? If so, please disclose the names and addresses of experts whom the defendant intends to call at trial, together with the results of the defendant's physical examinations and of scientific tests, experiments or comparisons that have been completed.
- d. Do you have any evidence? If so, please disclose a list of all papers, documents, photographs and other tangible objects that the defendant intends to use at trial.

1. Mitigation Discovery request: On the 12th of September 2014, I requested mitigation evidence. Recently, you mentioned in court that there are thousands of pages of documentation and hundreds of witnesses. To this date, no mitigation evidence has been disclosed to the State. Please disclose all mitigation witnesses and evidence. Please disclose:

- a. A list of all mitigating circumstances intended to be proved.
- b. The names and addresses of all persons, other than the defendant, whom the defendant intends to call as witnesses during the aggravation and penalty hearings, together with all written or recorded statements of the witnesses.



Mohave County Attorney's Office

Main Office:
P.O. Box 7000
315 N. 4th Street
Kingman, AZ 86402-7000
Telephone (928) 753-0719
Fax (928) 753-2669
Email CAO.Court@mohavecounty.us

MATTHEW J. SMITH
County Attorney

JAMES M. SCHOPPMANN
Chief Deputy

Victim/Witness
P. O. Box 7000
325 Pine Street
Kingman, AZ 86402-7000
Telephone (928) 718-4967
Fax (928) 718-4966

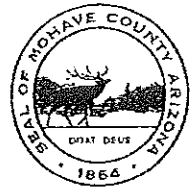
Branch Offices:
Bullhead City (928) 758-0727
Lake Havasu City (928) 854-3501

Civil Division:
Telephone (928) 753-0770
Fax (928) 753-4290

- c. The names and addresses of any experts whom the defendant intends to call during the aggravation and penalty hearings together with any reports prepared excluding the defendant's statements.
- d. A list of any and all papers, documents, photographs or tangible objects that the defendant intends to use during the aggravation and penalty hearings.
- e. The names and addresses of any rebuttal witnesses, together with their written or recorded statements, and the names and addresses of any experts who may be called at the penalty hearing, together with any reports prepared by the experts.

Sincerely,

Gregory A. McPhillips
Deputy County Attorney



Mohave County Attorney's Office

Main Office:
P.O. Box 7000
315 N. 4th Street
Kingman, AZ 86402-7000
Telephone (928) 753-0719
Fax (928) 753-2669
Email CAO.Court@mohavecounty.us

MATTHEW J. SMITH
County Attorney

JAMES M. SCHOPPMANN
Chief Deputy

Victim/Witness
P. O. Box 7000
325 Pine Street
Kingman, AZ 86402-7000
Telephone (928) 718-4967
Fax (928) 718-4966

Branch Offices:
Bullhead City (928) 758-0727
Lake Havasu City (928) 854-3501

Civil Division:
Telephone (928) 753-0770
Fax (928) 753-4290

September 5, 2017

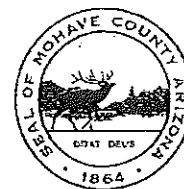
Quinn T. Jolly
Quinn Jolly Law
2642 East Thomas Road
Phoenix, AZ 85016

RE: *State v. Justin James Rector*
Superior Court Division 4 CR-2014-1193
Case status and requests for disclosure

Dear Quinn T. Jolly:

I hope all is well with you. Again, thank you for the most recent disclosure. That said, I have several requests for the defense. We are coming up on the September Status Hearing. At that time, Judge may expect us to announce a realistic trial date. At the very least we need to inform the court as to the most immediate tasks that need to be completed prior to trial. Below is my most immediate "to do" list.

1. **Interviews:** Please send me every date you are available to complete interviews between today's date through the end of this year. We will knock out more interviews.
2. **Sanity pre-screen:** On the 21st day of November, 2014, I requested the Court appoint an expert to make a prescreening determination of the defendant's sanity at the time of the commission of the offense, unless the defendant objects, pursuant to A.R.S. § 13-754. Defendant has made clear, on the record that he does not object to the screening. I have addressed the need for this screening at several hearings. I need defendant's mental health records so the State's expert can examine defendant.
 - a. We need to conduct this screening.
 - b. Please disclose all mental health records that you have collected regarding defendant.
 - c. Please disclose any experts you have retained to examine his mental health and their reports.



Mohave County Attorney's Office

Main Office:
P.O. Box 7000
315 N. 4th Street
Kingman, AZ 86402-7000
Telephone (928) 753-0719
Fax (928) 753-2669
Email CAO.Court@mohavecounty.us

MATTHEW J. SMITH
County Attorney

JAMES M. SCHOPPMANN
Chief Deputy

Victim/Witness
P. O. Box 7000
325 Pine Street
Kingman, AZ 86402-7000
Telephone (928) 718-4967
Fax (928) 718-4966

Branch Offices:
Bullhead City (928) 758-0727
Lake Havasu City (928) 854-3501

Civil Division:
Telephone (928) 753-0770
Fax (928) 753-4290

3. Request for disclosure of experts: Do you plan on calling any experts? If so, please disclose the names and addresses of experts whom the defendant intends to call at trial, together with the results of the defendant's physical examinations and of scientific tests, experiments or comparisons that have been completed.
4. Mitigation Discovery request: On the 12th of September 2014, I requested mitigation evidence. Recently, you mentioned in court that there are thousands of pages of documentation and hundreds of witnesses. To this date, no mitigation evidence has been disclosed to the State. Please disclose all mitigation witnesses and evidence. Please disclose:
 - a. A list of all mitigating circumstances intended to be proved.
 - b. The names and addresses of all persons, other than the defendant, whom the defendant intends to call as witnesses during the aggravation and penalty hearings, together with all written or recorded statements of the witnesses.
 - c. The names and addresses of any experts whom the defendant intends to call during the aggravation and penalty hearings together with any reports prepared excluding the defendant's statements.
 - d. A list of any and all papers, documents, photographs or tangible objects that the defendant intends to use during the aggravation and penalty hearings.
 - e. The names and addresses of any rebuttal witnesses, together with their written or recorded statements, and the names and addresses of any experts who may be called at the penalty hearing, together with any reports prepared by the experts.

Sincerely,

Gregory A. McPhillips
Deputy County Attorney

1 A copy of the foregoing
2 sent this same day to:

3 HONORABLE LEE F. JANTZEN
4 SUPERIOR COURT JUDGE

5 JULIA CASSELS
6 ATTORNEY FOR DEFENDANT
7 Law Office of Julia Cassels
8 2642 East Thomas Road
9 Phoenix, AZ 84015

10 By GJA